

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED
JAN 31 2007
for C. V. Williams
JOHN F. CORCORAN, CLERK
BY: [Signature] DEPUTY CLERK

LARRY MONROE,

Plaintiff,

v.

CITY OF CHARLOTTESVILLE, VIRGINIA, AND

TIMOTHY J. LONGO, SR. (IN HIS OFFICIAL
CAPACITY), AND

JAMES MOONEY (IN HIS OFFICIAL CAPACITY),

Defendants

CIVIL NO. 3:05cv00074

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court on Defendants' Motion to Dismiss, filed on September 7, 2006 (docket entry no. 49). For the reasons stated in the accompanying Memorandum Opinion, the Court hereby ORDERS that:

(1) regarding Count I of Plaintiff's amended complaint, Defendants' motion is DENIED with respect to Defendants' alleged race-based policy;

(2) regarding Count I of Plaintiff's amended complaint, Defendant's motion is GRANTED with respect to Defendants' alleged race-based decision to approach, request, and obtain DNA samples from Plaintiff; this latter Fourteenth Amendment violation claim under Count I is DISMISSED WITH PREJUDICE; and

(3) regarding Count II of Plaintiff's amended complaint, Defendants' motion is GRANTED, but Plaintiff is hereby given fifteen days within which to file an amended complaint properly alleging a violation of the Fourth Amendment with respect to Plaintiff "being subjected

to encounters” with Defendants. If Plaintiff does not or can not allege such a violation within fifteen days, Count II will be dismissed.

It is so ORDERED.

The Clerk of the Court is hereby directed to send a certified copy of this Order to all counsel of record.

ENTERED: Norma E. Mon
United States District Judge
January 31, 2007
Date